

NTSB Order No. EA-5394

Issued under delegated authority (49 C.F.R. 800.24)  
on the 10<sup>th</sup> day of July, 2008

Respondent .

Docket SE-18135

(a) Appeal brief ... each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

to which respondent filed no responsive pleading, is granted.

The record establishes that respondent filed a timely notice of appeal from the law judge's March 11, 2008 decisional order.<sup>3</sup> Respondent, however, did not file an appeal brief by the deadline established by § 821.48(a). To be timely, respondent had to file his appeal brief on or before April 10, 2008. However, respondent's appeal brief, which did not contain a certificate of service, was dated April 11<sup>th</sup> and postmarked April 18, 2008. United Parcel Service tracking records confirm that respondent's appeal brief was mailed on April 18, 2008; his brief was, therefore, untimely filed.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. Respondent's appeal is dismissed.

Gary L. Halbert  
General Counsel

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<sup>3</sup> The law judge granted the Administrator's motion to dismiss respondent's appeal as untimely, affirming the Administrator's order revoking, on an emergency basis, any air agency certificate held by respondent for alleged violations of certain provisions of the Federal Aviation Regulations. Respondent waived the expedited procedures normally applicable to emergency revocation proceedings under the Board's rules.